

## **REMARKS**

Claims 1-7 and 12-17 are currently pending. In an Office Action dated November 18, 2008, the Examiner rejected claims 1, 2, and 4 under 35 U.S.C. §103(a) as being unpatentable over Kokko (U.S. patent no. 5,790,534) in view of Applicant's Admitted Prior Art (AAPA) and Tiedemann (U.S. patent application publication no. 2002/0154610). The Examiner rejected claims 3 and 14-15 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Tiedemann and further in view of Laakso (U.S. patent no. 6,671,512), rejected claims 5, 7, 12, and 13 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Tiedemann and further in view of Uesugi (U.S. patent application publication no. 2003/0072266), and rejected claims 6 and 16-17 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA, Tiedemann, and Uesugi and further in view of Simonsson (U.S. patent no. 6,950,669). The rejections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 1, 2, and 4 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Tiedemann. With respect to claim 1, the Examiner contended that Kokko teaches a method used in a base station (BS) (FIG. 1) for determining a jitter buffer depth target that includes determining, by a wireless infrastructure, a radio frequency (RF) load metric corresponding to a BS (FIG. 1, 14 B & C), comparing, by the wireless infrastructure, the determined RF load metric to an RF load threshold to produce a comparison (col. 6, lines 34-36), and determining, based on the comparison, whether the BS has adequate resources to handle the transmissions from/to the mobiles 12.

The Examiner acknowledged that Kokko does not describe that the resources comprise a jitter buffer depth but contended that the AAPA teaches that it is well known that a receiving cellular radiotelephone includes a jitter buffer. The Examiner further acknowledged that neither Kokko nor the AAPA describe a wireless infrastructure making a determination and adjustment of a mobile station (MS) based on the MS's buffer size but contended that this is taught by Tiedemann (paragraphs 0056 and 0058, where a BS determines when a remote terminal is allowed to transmit in the reverse link

based on the remote terminal's buffer size information). The applicants believe that the Examiner has misapplied the cited references.

Nowhere does Tiedemann teach or even suggest a BS adjusting a buffer size of an MS. Paragraph 0058 of Tiedemann teaches a BS scheduling an MS, where the MS informs the BS of its buffer size and the BS then determines when the MS is allowed to transmit. The MS informs the BS of its buffer size; nothing here teaches the BS instructing the MS as to a buffer size to use. Furthermore, the BS merely instructs the MS as to when the MS may use an air interface. This does not teach the BS reconfiguring internal components of the MS, let alone determining a jitter buffer depth target of the MS.

Therefore, none of Kokko, the AAPA, or Tiedemann, individually or in combination, teaches the features of claim 1 of determining, by the wireless infrastructure, a jitter buffer depth target of a receiving mobile station based on a comparison, by the wireless infrastructure, of a determined RF load metric to an RF load threshold. Accordingly, the applicant respectfully requests that claim 1 may now be passed to allowance.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Kokko in view of AAPA and Uesugi and further in view of Simonsson, contending that Simonsson teaches determining to transmit frames at a higher power level when a determined RF load is lower than an RF load threshold (FIG. 6, step 604, and col. 7, lines 51-58). The applicant respectfully disagrees.

The cited step and section of Simonsson merely state that power may be increased or decreased to bring a data rate to a target level. Nothing here indicates that Simonsson is teaching anything other than the well-known concepts of increasing a transmit power in a high interference environment to improve reception and achieve a target data rate, and decreasing a transmit power in a low interference environment to conserve resources and minimize interference with other channels, as a lower signal power then may be applied while implementing acceptable reception. In fact, column 1, lines 20-27, of Simonsson clearly indicates that this is the teaching of Simonsson, and the fact that this is

the teaching of Simonsson is further supported by the paragraph following the cited section, which similarly teaches the well-known concept of increasing a transmit power in a high interference environment to achieve a target C/I and decreasing a transmit power in a low interference environment to achieve the target C/I, thereby conserve resources and minimize interference with other channels in the low interference environment.

In contrast to Simonsson, claim 6 specifically teaches transmitting frames at a *higher power level* when a determined RF load is *lower* than an RF load threshold. Typically, an RF load being below an RF load threshold is an indicator of *low interference*, while an RF load above an RF load threshold is an indicator of high interference. Therefore, the teachings of Simonsson actually suggest the opposite of the teachings of claim 6, that is, they suggest *increasing* a transmit power when a determined RF load is *higher* than an RF load threshold. None of Simonsson, Kokko, AAPA, or Uesugi, teaches the feature of claim 6 of transmitting frames at a *higher power level* when a determined RF load is *lower* than an RF load threshold.

For the above reasons, and since claims 2-7, 12, and 13 depend upon allowable claim 1, the applicant respectfully requests that claims 2-7, 12, and 13 may now be passed to allowance.

As the applicant has overcome all substantive rejections and objections given by the Examiner and has complied with all requests properly presented by the Examiner, the applicant contends that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicant respectfully solicits allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter. Furthermore, please charge any additional fees (including any extension of time fees), if any are due, or credit overpayment to Deposit Account No. 50-2117.

Respectfully submitted,  
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